

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LARRY ALLEN SLEDGE,)	
)	
Plaintiff)	Case No. 1:20-cv-00336 (Erie)
)	
vs.)	
)	HON. RICHARD A. LANZILLO
ERIE COUNTY PRISON, WARDEN)	UNITED STATES MAGISTRATE JUDGE
KEVIN SUTTER, DEPUTY WARDEN)	
MICHAEL HOLMAN, CAPTAIN)	
MITCH CARMEN, CAPTIN SHAWN)	ORDER ON
BOLT, CORRECTIONAL OFFICER)	DEFENDANTS' MOTION TO DISMISS
HILL, and CORRECTIONAL OFFICER)	
BARRETT,)	ECF NO. 20
)	
Defendants)	

For the reasons set forth in the Court's Memorandum Opinion filed separately, the Defendants' Motion to Dismiss (ECF No. 20) is hereby GRANTED and the claims against the Defendants are dismissed.¹ This dismissal is without prejudice and the Plaintiff may file a Second Amended Complaint within twenty-one days from today, that is, on or before Friday, November 19, 2021.

The Court cautions the Plaintiff that, upon the filing of a Second Amended Complaint, the previous Amended Complaint no longer performs any function in the case and cannot be utilized to cure defects in the newly filed Second Amended Complaint, unless the relevant portion is specifically incorporated in the new complaint. *See, e.g., Rulli v. City of Pittsburgh*, 2021 WL 1391761, at *6 (W.D. Pa. Mar. 23, 2021), *report and recommendation adopted in part*, 2021 WL 1390492 (W.D. Pa. Apr. 13, 2021). A Second Amended Complaint may adopt some or all of the allegations in the Second Amended Complaint, but the identification of the particular allegations to be adopted must

¹ The Parties have consented to the jurisdiction of a United States Magistrate Judge in these proceedings pursuant to the Magistrate Judges Act, 28 U.S.C. § 636(b)(1). *See* ECF Nos. 3, 27.

be clear and explicit. *See* 6 Wright, Miller & Kane, Federal Practice and Procedure 1476 (2d ed. 1990) (footnotes omitted). To avoid confusion, the safer course is to file an amended complaint that is complete in itself. *Id.*

If the Plaintiff fails to file a Second Amended Complaint by November 19, 2021, the claims dismissed by this order will be dismissed with prejudice.

Ordered and Entered this 29th day of October, 2021.

A handwritten signature in black ink, appearing to read 'R. Lanzillo', written over a horizontal line.

HON. RICHARD A. LANZILLO
United States Magistrate Judge